

**AGENCY BILL ANALYSIS
2025 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

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SECTION I: GENERAL INFORMATION

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date Prepared: 2025-01-23

Bill No: HB134

Sponsor(s) Andrea Reeb
:

Agency Name CYFD 69000
and Code
Number:

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Short DELINQUENCY ACT
Title: CHANGES

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
7,206.3	28,825.0	Recurring	General Fund
175.0	0	Non-recurring	General Fund

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

ESTIMATED ADDITIONAL OPERATION BUDGET (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Click or tap here to enter text.	Click or tap here to enter text.	27.9 Million	27.9 Million	Recurring	General Fund

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act:

SECTION III: NARRATIVE

BILL SUMMARY

HB 134 proposes significant changes to the Delinquency Act in New Mexico. This bill would amend the delinquency act to expand the types of crimes for Serious Youthful Offender to include second degree murder, voluntary manslaughter, robbery while armed with a deadly weapon, shooting at a dwelling or occupied building from a motor vehicle resulting in great bodily harm. The bill also expands the types of crimes for Youthful Offender to include possession of a gun, homicide by a vehicle, involuntary manslaughter, and failing to stop a vehicle when involved in an accident that results in injury or death. It removes the requirements that the children's court attorney consult probation services before filing a petition and that a detention risk assessment be completed. Adds the transfer from juvenile detention to an adult county jail for all when a child reaches the age of 18. The bill eliminates a special master's authority for determining detention and limits it to the Judge. It omits the requirements for electronic hearings regarding recording and record preservation; child having legal representation; no plea being allowed via electronic communication and undue hardship. The bill allows for an adjudicated youthful offender to waive the right to an amenability hearing and be sentenced as an adult. It gives the court discretion to determine whether a presentence or predisposition report is needed. The bill eliminates one year, up to two years, up to age twenty-one and mandatory supervised release for those committed to the department and gives the court discretion to order a commitment or probation up to age twenty-five. The bill eliminates that greater weight be given to offenses against persons if personal injury resulted in determining whether to invoke an adult sentence. The bill eliminates consent decrees for those charged as a youthful or serious youthful offender. The bill omits the department's exclusive jurisdiction and authority to release an adjudicated delinquent child based on the listed criteria if the child is committed to the department's custody. It lowers the standard of proof in a probation revocation proceeding to preponderance of evidence. It authorizes a party to reference the existence of a juvenile records and content to address conditions of release or sentencing. The bill repeals section 32A-2-32.1 allowing a state agency to publicly disclose on a website information pertaining to a child's arrest or detention, delinquency proceedings, adjudication, social records, and the imposition of an adult sentence.

FISCAL IMPLICATIONS

This bill would require CYFD to increase staffing in its juvenile justice (JJ) services operations both to supervise those on probation and house those committed to the age of 25. This cost would be \$27.9 Million and would cover staff for JJ field services, including probation, transitional services and all the juvenile correctional and reintegration facilities; space and physical plant to handle the increased committed population of 21–25-year-olds; and contractual services such as food, additional medical and all programming.

Incarcerated youth do not qualify for federal reimbursement. Therefore, the costs associated with HB134 would be funded solely by the State General Fund.

SIGNIFICANT ISSUES

(1.) Determination of “Deterrents” and “Alternatives” in the Purpose of the Delinquency Act - The bill does not specify who will determine whether “deterrents” and “alternatives” are appropriate, creating ambiguity in implementation. This section in its current form allows for facts and circumstances to determine when community-based alternatives to detention are warranted without these additional changes.

(2) Expansion of “serious youthful offender” and “youthful offender” categories. The definition of serious youthful offender expands to include 14-year-olds (previously 15-18) and additional crimes:

- Second-degree murder
- Voluntary manslaughter
- Robbery with a deadly weapon
- Shooting at a dwelling or from a vehicle causing great bodily harm

The youthful offender category expands to include:

- Shooting at/from a vehicle (without great bodily harm)
- Unlawful possession of a handgun
- Homicide by vehicle, involuntary manslaughter
- Failing to stop at an accident involving injury or death

(3) Removes the requirement for Children’s Court Attorneys to consult with probation services before filing a delinquency petition. The removal of the requirement to consult with probation services before filing a petition means:

- Juvenile probation services will no longer assess or assist in the best course of action before a

case proceeds.

- Prevents early intervention opportunities
- Children's Court attorneys will lack critical background information about the child's family situation, educational needs, and mental health history when making prosecutorial decisions.
- This reduces the court's ability to make informed treatment and rehabilitation recommendations.
- Prevent diversion from formal prosecution

(4) Eliminates the requirement for a detention risk assessment before placing a child in detention. By eliminating this it potentially:

- Increases the risk of arbitrary detention decisions.
- Disproportionate impact on youth of color and lower-income juveniles, as risk assessments were designed to reduce racial and socioeconomic disparities.

(5) Mandates the transfer of detained juveniles to county jails when they turn 18 indifference to the accused act. By mandating juveniles to county facilities it:

- Disrupts access to rehabilitative services provided in juvenile facilities.
- Increases risk of physical and psychological harm due to exposure to adult inmates.
- Numerous studies have shown that youth held in adult facilities are more likely to die by suicide, suffer physical and sexual abuse, and experience psychological trauma than their peers held in facilities designed for youth.

This change will significantly impact JJ staff in their ability to:

- Communicate with clients
- Obtain necessary information for case management
- Ensure adequate services are provided

Additional logistical challenges include:

- Scheduling appointments with the county jail
- Travel requirements if the jail is not nearby
- Delays due to county jail staffing limitations
- Restricted access to information due to jail policies

(5) Virtual Detention Hearings and Waivers (32A-2-13) Removes requirements to hold such hearing to include undue hardship consideration, and electronic record-keeping for virtual detention hearings. It is important for kids to see a judge in person because their limited understanding of the criminal process, constitutional rights, and legal proceedings make it difficult for them to grasp complex information in a virtual setting, where behavioral cues and engagement are harder to assess. This makes for a higher risk of coercion and uninformed decisions by youth waiving rights and can limit their access to their attorneys.

(6) Allow a juvenile to waive the basic right of having an amenability hearing (32A-2-14). An "amenability hearing" allows the court to determine whether a juvenile offender can be rehabilitated within the juvenile justice system. Evidence from psychological experts are taken into evidence. If a juvenile is allowed to waive their right, it increases the risk that juveniles, who may not fully understand the long-term consequences of their decisions, face harsher penalties,

longer incarceration, and fewer rehabilitative opportunities.

(7) Expansion of Court Sentencing Authority & Elimination of Short- and Long-Term Commitments & Supervised Release (32A-2-19) This allows courts to impose juvenile probation or commitment until age 25 and removes all mandatory supervised release, meaning juveniles could be released without reentry services. The potential impact may lead to:

- Longer incarceration periods for some youth.
- Lack of structured reentry support increases recidivism risk.
- Without supervised release, youth will lose access to critical reentry services such as housing, employment support, and mental health resources.
- Juvenile Justice Services nor its facilities are equipped to provide services or can accommodate juveniles over the age of 21

(8) Changes to Juvenile Record Confidentiality (32A-2-32.1 Repeal) Eliminates confidentiality protections for juvenile records, allowing sealed records to be used in pretrial detention, release, and sentencing hearings will severely impact the purpose of the Delinquency Act and juveniles will face long-term consequences. It will hinder a child's ability to attend school, obtain employment, seek higher education or obtain a trade certification or licensure, and housing due to accessible criminal records.

(9) Standard of Proof for Probation Revocation (32A-2-23.1) Lowers the standard of proof for probation violations to preponderance of the evidence (instead of clear and convincing evidence).

- Makes it easier to revoke probation, potentially leading to increased incarceration for minor violations.
- This standard is a lower standard than their adult counterparts in the adult system.

(10) Changes to Release Authority (32A-2-23.1) The bill removes the Department's exclusive authority to release an adjudicated delinquent, instead granting this authority to the Secretary.

- This creates a potential conflict in decision-making and will likely result in delays and administrative burdens affecting timely release decisions.

PERFORMANCE IMPLICATIONS

The proposed changes in the bill will affect the underlying purpose and objective of the Children's Code, CYFD's facility and field services operations, the Department of Corrections, detention centers and county jails.

Currently, CYFD's facilities and field services could not perform the services to accommodate a major population increase without an increase in staff, supervisors, medical staff on site, added security and safety, added programming requirements for 21–25-year-olds, training, and infrastructure changes at all CYFD facilities.

Compliance with federal laws such as the Prison Rape Elimination Act and other federal requirements will be compromised without the proper staff and required infrastructure changes to accommodate a larger population up the age of 25.

It will have an impact on Juvenile Justice (JJ) Services' Ability to Divert Cases

- Currently, 57% of referrals to JJ services are diverted to informal handling due to preliminary inquiries.
- 57% of cases referred to Children's Court Attorneys are either rejected or dismissed based on information obtained through JJ services.
- The elimination of preliminary inquiries will reduce opportunities for informal resolution or pre-prosecution resolutions, potentially leading to more children facing formal charges.

ADMINISTRATIVE IMPLICATIONS

It would create a significant impact on the department's administration of JJ services due to the limited number of existing facilities, space and supervisory staff including medical, mental health and educational personnel.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with NMAC 8.14.14.18 N: Juveniles shall not be transferred to a county/adult jail solely on the basis of turning 18 years old while in a juvenile detention center.

Conflicts with laws pertaining to the right to an attorney at all proceedings, confidential provisions of the Children's Code and the protections of sealed records, and purpose of the delinquency Act.

Creates conflicts at 32A-2-23.1 regarding the elimination of the department's exclusive jurisdiction and authority to release an adjudicated delinquent during the term of commitment, allowing the department Secretary to grant or deny release, the department being able to deny or approve release contrary to the recommendation of the juvenile public safety advisory board.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

If enacted, House Bill 134 (HB 134) would fundamentally alter how New Mexico handles juvenile offenders by increasing pathways for youth to be charged as adults, limiting access to rehabilitative services, and weakening procedural safeguards that protect juveniles.

The removing of a Special Masters from conducting detention hearings does not significantly impact on the department or the ability of the department to continue to provide services.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

HB 134 shifts New Mexico's juvenile justice system away from rehabilitation and toward a punitive, adult-oriented model. Rather than addressing juvenile crime through prevention, rehabilitation, and reintegration, HB 134 focuses on punitive measures that ignore developmental science and proven rehabilitative approaches. If enacted, the bill is likely to increase youth incarceration, recidivism, and long-term consequences for young offenders, ultimately making New Mexico's justice system more punitive and less effective.

AMENDMENTS

None.